

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

SHAWN COOK,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-cv-04022

DAVID BALLARD,

Defendant.

ORDER

Pending before this Court is a Complaint filed by Plaintiff Shawn Cook (“Plaintiff”). (ECF No. 2.) By standing order entered on January 4, 2016, and filed in this case on September 22, 2017, (ECF No. 5), this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition (“PF&R”). Magistrate Judge Tinsley filed his PF&R on October 9, 2020, recommending that this Court find that Plaintiff’s Complaint fails to state a claim upon which relief can be granted against Defendant David Ballard or, in the alternative, dismiss the Complaint for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (ECF No. 10 at 5.)

This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the PF&R to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff’s right to appeal this Court’s order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v.*

Schronce, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

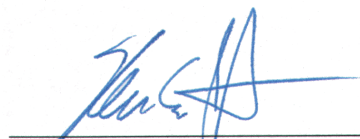
Objections to the PF&R in this case were due on October 26, 2020. (ECF No. 10.) To date, Plaintiff has failed to submit any objections in response to the PF&R, thus constituting a waiver of *de novo* review and Plaintiff's right to appeal this Court's order.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 10), in its entirety and **DISMISSES** the Complaint, (ECF No. 2), **WITH PREJUDICE**. The Court further **DIRECTS** the Clerk to remove this action from the Court's active docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: October 27, 2020



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE